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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/592,986

09/14/2006

Marlen Andreevich Sulamanidze

06-505

8887

34704 7590 02/12/2008

BACHMAN & LAPOINTE, P.C.

900 CHAPEL STREET

SUITE 1201

NEW HAVEN, CT 06510

EXAMINER

BLATT, ERIC D

ART UNIT

PAPER NUMBER

3734

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/592,986	<b>Applicant(s)</b> SULAMANIDZE ET AL.	
	<b>Examiner</b> Eric Blatt	<b>Art Unit</b> 3734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 4-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 September 2006 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                        |                                                                   |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9-14-2006</u> .                                               | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Objections***

Claim 7 is objected to because of the following informalities: claim 7 recites “wounding the thread” wherein it appears to intend “winding the thread.” Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 7-9, said claims recite that the thread is introduced “in an extended state . . . as a compression spring and in a compressed state as an extension spring.” It is unclear how the thread could be in both configurations during introduction, and whether this language means that the thread is simultaneously in two different configurations, is alternatively in either configuration, or if the thread is merely capable of being in either configuration.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3731

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 4 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoon (US 5,810,851).

Regarding claims 4 and 5, Yoon discloses a surgical thread 26 (Figures 1-8 and 11-13) for cosmetic surgery comprising a thread having elements 28 for fixing subcutaneous tissue, said elements comprise a helix shape in the form of a spring, said thread having a diameter of between 0.1 mm to 1 mm and said helix shaped elements having a diameter of between 0.5 to 5 mm, (Column 8, Lines 34-57) wherein said thread is formed of a material selected from the group consisting of metal, polymer, biological, and mixtures thereof. (Column 18, Lines 18-35) There is a puncture needle 24 having a front sharp end 44. The thread 26 and needle 24 are fastened together such that they pierce through tissue without moving relative to one-another. Since the entirety of the thread 26 is fastened to the entirety of the needle 24, the front end of the thread 26 is fastened to the sharp end 44 of the needle 24. The needle 24 has an inner surface curving along the inner diameter of the helix. The thread 26 is tightly wound around said inner surface of the needle 24, and is thus considered to be tightly wound around the needle 24. The needle 24 has an opening, and the helix-shaped thread 26 is fastened in the opening of the needle.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 rejected under 35 U.S.C. 103(a) as being unpatentable over Yoon (US 5,810,851).

Regarding claim 6, Yoon discloses all elements of claim 6 as previously discussed except that there is a gap between the diameter of the helix and an inner wall of the needle of between 0.2 mm to 2.0 mm. Depending on the particular dimensions of the needle 24 and the thread 26, there would likely be some small gap between the inner wall of the needle 24 and the thread 26. It would have been obvious to one of ordinary skill in the art at the time of the invention to have this gap be between 0.2 mm and 2.0 mm since it has been held that it is within the knowledge of one of ordinary skill in the art to determine an optimal range for the size of a device.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Coggins; Peter R. et al. (US 5217494): Tissue supporting prosthesis
- Johnson; Greg A. et al. (US 6485504): Hard or soft tissue closure
- Pierson, III; Raymond H. (US 6663633): Helical orthopedic fixation and reduction device, insertion system, and associated methods

- Morriss, John H. et al. (US 20030074021): Remotely anchored tissue fixation device
- Conrad; Timothy R. et al. (US 20070233276): Tongue Implant

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Blatt whose telephone number is (571)272-9735.

The examiner can normally be reached on Monday-Friday, 9:00 AM-6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on 571-272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Eric Blatt  
571-272-9735

/Todd E Manahan/  
Supervisory Patent Examiner, Art Unit 3731